

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

ANTHONY RAPP,

Plaintiffs,

-against-

KEVIN SPACEY FOWLER a/k/a KEVIN SPACEY,

Defendant.

Case No. 1:20-cv-09586 (LAK) (SDA)

**NOTICE OF DEFENDANT'S MOTION *IN LIMINE* NO. 3 TO PRECLUDE PLAINTIFF
FROM OFFERING EXPERT TESTIMONY ON CREDIBILITY ISSUES AND OTHER
IMPROPER OPINIONS OF HIS EXPERT WITNESS, LISA ROCCHIO, Ph.D.**

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Kevin Spacey Fowler a/k/a Kevin Spacey*

TO THE COURT, PLAINTIFF, AND HIS ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that Defendant Kevin Spacey Fowler (“Mr. Fowler”) will and hereby does move this Court, before the United States District Judge Lewis A. Kaplan, in the United States District Court for the Southern District of New York, located in the Federal Courthouse, 500 Pearl Street, New York, NY 10007, on October 6, 2022, or a date to be set by the Court, for an order *in limine* to preclude plaintiff Anthony Rapp from offering expert testimony on credibility issues and other improper opinions of his expert witness, Lisa Rocchio, Ph.D.

Under Federal Rule of Evidence 401-403, 701-702, and other applicable law, Mr. Fowler brings this motion to preclude Dr. Rocchio from testifying at trial about opinions or information that would invade the province of the jury and are otherwise inappropriate for expert opinion. Dr. Rocchio’s report includes opinions and conclusions that purport to opine on the credibility of Plaintiff and his allegations, as well as the purported corroboration of other evidence. This is plainly improper. Dr. Rocchio also provides impermissible expert opinions constituting legal conclusions and a narrative description of hearsay statements of which she has no personal knowledge. Relatedly, Plaintiff’s counsel should be precluded from asking questions of Mr. Fowler’s rebuttal witness, Alexander Bardey, M.D., about credibility issues, including without limitation allegations of unrelated alleged misconduct of Mr. Fowler. Dr. Bardey was not designated to opine about credibility issues or anything to do with a psychological evaluation of Mr. Fowler. Nor was Dr. Rocchio. And other allegations of sexual misconduct are entirely irrelevant to either expert’s opinion. Finally, Mr. Fowler seeks an order precluding Dr. Rocchio from testifying at trial about any opinions not stated by her in her report or at her deposition.

The motion is based on this notice, the Memorandum of Points And Authorities filed with this notice of motion, the Declaration of Chase Scolnick filed with this motion and the exhibits to

it, the pleadings, records, and files in this action, and upon any and all oral and documentary evidence presented at or before any hearing on the motion.

Dated: September 26, 2022
Irvine, California

Respectfully submitted,

/s/ Jennifer L. Keller

Jennifer L. Keller

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CERTIFICATE OF SERVICE

In accordance with Local Rule 5.2, I, Jennifer L. Keller, hereby certify that on September 26, 2022 this document filed through the ECF system will be sent electronically to the registered participants as identified in the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants.

/s/ Jennifer L. Keller

Jennifer L. Keller